

Meeting of 2000-10-10 Regular Meeting

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
OCTOBER 10, 2000 - 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor Cecil E. Powell, Also Present:
Presiding Bill Baker, City Manager
John Vincent, City Attorney
Brenda Smith, City Clerk
LTC Anthony Puckett, Fort Sill Liaison

The meeting was called to order at 7:15 p.m. by Mayor Powell. Notice of meeting and agenda were posted on the City Hall notice board as required by State Law.

ROLL CALL

PRESENT: G. Wayne Smith, Ward One
James Hanna, Ward Two
Glenn Devine, Ward Three
John Purcell, Ward Four
Robert Shanklin, Ward Five
Barbara Moeller, Ward Six
Stanley Haywood, Ward Seven
Michael Baxter, Ward Eight

ABSENT: None.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF SEPTEMBER 26 AND SPECIAL MEETING OF OCTOBER 3, 2000.

MOVED by Smith, SECOND by Baxter, for approval of the minutes. AYE: Haywood, Baxter, Smith, Hanna, Devine, Purcell, Shanklin, Moeller. NAY: None. MOTION CARRIED.

AUDIENCE PARTICIPATION: None.

Mayor Powell asked that Item 14 be considered at this time.

14. Consider accepting improvements at Greer Park to include the Kid's Zone playground and associated structures. Exhibits: None.

Gary Salva, Parks & Recreation Director, Mark Glenn and Suzy Irwin came forward. Salva said after two years of hard work and self sacrifice, the playground committee has accomplished their goal and the Kid's Zone is complete. Salva said it is a tremendous contribution to the Parks & Recreation Department and he was in awe of the accomplishment. He recommended acceptance of the improvements and said committee members are here to present the Kid's Zone improvements to the City.

Mark Glenn thanked the Mayor for buying into the idea of bringing Kid's Zone to Lawton, and the City Council for their support by vote, personal and City money, and those who provided labor to build the playground. Glenn thanked the City Manager and City Attorney for the assistance each provided. He recognized Suzy Irwin, one of the two general coordinators, and the other coordinator, Pat Sutherland, who is out of town tonight.

Suzy Irwin said this was a team effort and the City was part of that team. She recognized the leaders of the 3,500 volunteers who came forward over the last week, and LTC Pat Sutherland and his family for their efforts and representation of Fort Sill. Irwin said the Childrens Committee was made up of children who were chosen as delegates to represent the elementary schools throughout the area, and assisting with that was Kathy McKenzie, teacher with Gifted and Talented Program, and Connie Myatt, whose husband is the Manager of McCoy's Lumber; and Robin Dooley and her son, Kevin, and LTC Mike Dooley who coordinated the tools and volunteers from Fort Sill. Steering committee members were recognized as follows: Ken Isaac, Public Relations Chairman, and the outstanding media coverage; Diane Denham and her husband, David, who represents Great Plains AMBUCS which was the charitable organization of the project, and Diane was the food chairman; Charles Fuqua represented Great Plains Technology Center and the skilled laborers through masonry and carpentry students who had an outstanding opportunity to use their skills; Claudette Colbert was the child

care coordinator in the facility provided by St. Paul's United Methodist Church, which allowed use of their facility to host the child care and the meals. Jasper Griggs was the site captain.

Glenn said the people present were a little bit different from paid employees; it rained on them, there was 45 mph winds, freezing weather, 100 degree weather, and if these were paid employees, they would have gone home, but they stayed and worked. Irwin presented Mayor Powell a ceremonial key to Kid's Zone.

Mayor Powell expressed appreciation for the group which made this special place for every child and said it will make a difference in the children in our city.

MOVED by Devine, SECOND by Moeller, to accept the improvements at Greer Park to include the Kid's Zone playground.

Purcell said a special round of applause was due Mark Glenn for his initiative and perseverance to make this happen.

VOTE ON MOTION: AYE: Baxter, Smith, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood. NAY: None. MOTION CARRIED.

Mayor Powell asked that Item 10 be considered at this time.

10. Consider a resolution authorizing the installation of traffic control devices at SW 11th and "F" Avenue, SW 52nd and Gore, NW 24th, and NE Angus Place. Exhibits: Resolution 00-____; Excerpt of draft 9/21/00 Traffic Commission Minutes. Dan Tucker, Building Development, said the Traffic Commission, on September 21, recommended the traffic control measures listed. He said at SW 11th and F the recommendation was for protected turn signals for traffic northbound and southbound, without throwing off synchronization with the rest of the lights on 11th Street.

Smith asked if there would be a separate, dedicated turn lane. Tucker said they are working on the design and this is being done in the interim. Smith asked why we would not make the light show a separate, protected turn. Tucker said that is possible but it would not be synchronized with the rest of the lights on 11th Street. Smith said they are not synchronized very well anyway. Shanklin said traffic speed impacts that and this was one of the reasons for the request to reopen the 9th Street railroad crossing.

MOVED by Devine, SECOND by Moeller, to accept the first item for SW 11th and F Avenue. AYE: Smith, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Baxter. NAY: None. MOTION CARRIED.

Tucker explained the second request was for crosswalk markings on SW 52nd Street by Eisenhower School. Mayor Powell asked if that was in front of the school library and Tucker said yes.

MOVED by Baxter, SECOND by Smith, to install crosswalk markings on SW 52nd Street and Gore on the south side. AYE: Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Baxter, Smith. NAY: None. MOTION CARRIED.

Tucker explained the request is for a 25 mph speed limit sign on NW 24th Street.

MOVED by Smith, SECOND by Haywood, to install 25 mph signs on NW 24th Street. AYE: Devine, Purcell, Shanklin, Moeller, Haywood, Baxter, Smith, Hanna. NAY: None. MOTION CARRIED.

Tucker said NE Angus Place is a one block street that connects Rogers Lane to NE Angus Street immediately west of and adjacent to Pioneer Park School. A request was received from the school principal to make the street a one-way street for a short period of time in the morning when it is congested when school is beginning, and a one-way street in the afternoon when it is congested for picking up children. A similar request was considered near Pat Henry School and the no parking, stopping or standing was installed on one side of the street, and it eliminated the congestion, so following that proposal, the school and Traffic Commission recommend placing traffic signs on the west side of NE Angus Place reading no parking, stopping or standing from 8 a.m. to 4 p.m. on school days. He said people now stop on both sides of the street and children come out from behind cars trying to get to the other side of the street, and fortunately there have been no accidents because it is congested.

MOVED by Purcell, SECOND by Moeller, to install no parking, stopping or standing 8 a.m. to 4 p.m. on school days signs on the west side of NE Angus Place.

Purcell said he received several calls due to a misunderstanding that we would put up one-way signs and people were opposed to that because there are a lot of trucks that go into the school during the day that most likely come in from Rogers Lane, and if it was one-way, they would have to go down and around the block to get back to Rogers Lane. He said that is not a good situation, plus if it was one-way during part of the day, and people going both ways during other times. Purcell said there was an accident there last year because of people parking on both sides of the road, a little girl was hit when she ran out from between cars. He said emergency vehicles would not be able to get down the street if cars were parked on both sides. Purcell said there is a terrible parking problem at the building and this is the best solution.

Mayor Powell recognized requests from the audience to speak.

Cherie Lail, resident of the Turtle Creek Addition, said he son attends Pioneer Park Elementary School. She said as far as

the Pioneer Park Elementary parking problem goes, the most important part to consider in evaluating the traffic movement proposal is the safety of the children. Lail said she felt the Traffic Commission's recommendations were not in the best interest of the safety of the children. The Traffic Commission based its decision partly on the circumstances surrounding the request by the principal at Pat Henry Elementary. Lail referred to a graphic showing the layout of Pioneer Park Elementary stating it is not in any shape, form or fashion resembling Pat Henry, which is bordered by homes on all four sides whereas the street Pioneer Parks sits on is exclusively for that school; there are two other outlets for residents that live on the street north of the school to access out of the Pioneer Park housing development by going on Pioneer Park Boulevard or to Cimarron.

Lail said their proposal for one-way traffic flow means having the direction of traffic being the same during the morning and afternoon for a very limited time period. This form of traffic control is currently being used in the Irving Public School System at three of their facilities, the William B. Travis Junior High, Crockett Junior High and the Douglas MacArthur High School; at the high school they do it morning, noon and afternoon, and it is quite successful. She said the Traffic Commission is worried about the amount of confusion there might be with a timed flow of one-way designated traffic; as with any change, there is going to be confusion. Lail said once parents are alerted to the changes in traffic flow, the incidents of confusion will be eliminated; parents have volunteered to help direct traffic in the morning and afternoon to make sure everything flows smoothly and all of the children are safe.

Lail said there is not enough parking for the staff at Pioneer Park Elementary; there are 31 parking spaces and there are 48 staff members, leaving them 17 spaces short. The Traffic Commission's proposal is to eliminate parking on one side of Angus Place, and she did not feel this recommendation would be beneficial to the staff that are there to serve the children, or the parents who are extremely involved in the building. Currently a number of parents have to park along Rogers Lane in the mornings and afternoons if they want to pick up their children. She said along Rogers Lane at 8:45 in the morning is not a good place to be, and to eliminate an area of parking around the school would only make the condition worse. The only additional parking for Pioneer Park Elementary is the field west of the building; it is not owned by the City or the school system, it is privately owned and the owner said when necessary they could park there. Parking on the grassy field is a major fire hazard when cars with hot catalytic converters and dry grass, it could cause a major disaster. Lail said their proposal would not cause the elimination of any area of parking and with the implementation of one-way traffic flow, the need to eliminate parking areas is zero. With the recent incident of attempted child luring by a stranger in the Pioneer Park Elementary school area, the City Council should look at making the area around the school a more student and parent friendly area, as opposed to one that will make the children walk farther from the building to be picked up by their parents.

Lail said after discussing the issue with the PTA President, numerous parents, and the principal, she would recommend the following proposal: To designate Angus Place, the street in front of Pioneer Park, a one-way street from the hours of 8:30 to 9:30 a.m. and from 3:00 to 4:00 p.m. and the flow of traffic would go from Rogers Lane on the south to Angus Street on the north. Parking would still be available on both sides of the street. She asked for more parking to help eliminate confusion and congestion by the parents that arrive after 9:30 to work just a few hours in the afternoon in their children's classes, and there are quite a few of those so that when 3:00 comes they will be going the right direction when school lets out. Lail said there are volunteers who will place themselves in the appropriate areas and make sure traffic moves in a correct manner and to assist in the safe movement of the students from the building. She said with the assistance of the City Council, the minor traffic problem at Pioneer Park Elementary can be addressed and corrected without putting the safety of the children at issue.

Lail said Purcell made a comment about truck traffic, and if you go over there in the morning between the hours of 8:45 and 9:15, the residents in the Pioneer Park Addition stay away from the school; the trucks do not come at those hours of the day, so any time after 9:15 or 9:30, they can drop something off and go back out to Rogers Lane and not go through the housing development. She said the accident occurred three years ago, and the principal and parents are out there, but the solution proposed by the Traffic Commission would make the problem bigger.

SUBSTITUTE MOTION by Devine to table this and let them do a little more study because she expressed a very important question and we need to look at it.

Purcell said he would be glad to have it studied more and there are still some safety issues, and it is not as simple as it seems because there will be more traffic going one way into the street on Angus where children are walking to school and people are parking on both sides of the street. He said there are many other issues and he agreed it should be studied more, so he would second the motion. Devine said he did not want to see kids on Rogers Lane for any reason because he travels that road daily. Mayor Powell said another person has asked to speak before the second is accepted. Purcell withdrew the second.

Mr. Perry said he might make some people mad; three years ago a no parking sign was placed on Angus Street and he recommended it be put on Angus Place, and that his was the only house on Angus Place. He said there is traffic congestion on Angus Place and he has problems getting out of his driveway quite often during the school year because parents are parked across it. Perry recommended this not be tabled but that the Traffic Commission recommendation be approved.

Judy Prater, 905 NE Dove in Turtle Creek, said her children attend Pioneer Park Elementary. She said she was concerned that if the street is allowed to be closed, Angus Avenue is a residential street with parking on both sides of the street; at the present time when school is not in session you can only get through one car on that street, so if you close Angus Avenue then the options to drop off your children are three fold, and that is to drop them off on that street, which will make it more congested than it is right now and almost immovable traffic; to drop them off on Rogers Lane, which is being

done currently and is tremendously dangerous, or to pick them up or drop them off on an angled road that is directly east of the school. She said her husband is a bus driver and the angled road is used for bus pick up and let off of the children; it is a very narrow road that allows one car or bus to go in any direction and if a car is parked there, there is no way you can get past it. If there is limited loading space, parents will be forced to go on the angled road and the bus cannot unload children a block away so her husband has had to hold children on the bus for fifteen minutes waiting for a parent to get their child in or out of the school so he can drive the bus up. Mayor Powell asked Prater's recommendation. Prater recommended making it a one-way street for the time periods before and after school.

Mandy Foster, parent of students at Pioneer Park, said she has been there for six years and this is a problem that has existed for those six years. She said she was present when the little girl was run over and she asked that members come out and look at the area. Foster said if the Traffic Commission recommendation is approved, it will put their children in danger and asked that consideration be given to the parents' suggestions.

Haywood asked that the principal comment. John Tregilus, Pioneer Park Elementary Principal, said safety of the children is the utmost concern and he recommended the one-way restrictions during limited hours. He said through the school newsletter and communications with the parents, in a short time period, everyone would know of the change. Tregilus urged Council to look at it or consider the one-way.

Purcell said he thought there was a better way and he would second the motion to table it for further study, and bring it back at the next meeting. Devine agreed.

VOTE ON SUBSTITUTE MOTION TO TABLE: AYE: Purcell, Shanklin, Moeller, Haywood, Baxter, Smith, Hanna, Devine.
NAY: None. SUBSTITUTE MOTION CARRIED.

UNFINISHED BUSINESS:

1. Consider the following damage claim recommended for denial: Elizabeth "Queenie" Raymond. Exhibits: Legal Opinion/Recommendation.

Mayor Powell announced that neither Ms. Raymond nor her representative can be present tonight, it was requested that the letter be read for the record, and that will be done. Vincent said the City Council received a letter dated September 24, 2000, from Mrs. Queenie Raymond and that he would read it into the record at her request and the request of her representative: "Dear Councilmen/Madam: This letter comes to provide my presentation in absentia to the City Council, which will be read by a representative for the minutes at the meeting on October 10, 2000 at 6:00 p.m. I want the City Council of Lawton to know that my family, the heirs of Emma O. Ackerman, has been treated unfairly in the process associated with destroying 14 B Ave. SW.

Nevertheless, in the beginning, the family was enthused about the publicity in the community concerning moving Mrs. Will Tom Gibbs to her home on Arlington Drive, and we were delighted to be working with Mr. Dan Tucker and his efforts to bring the move to fruition. During this period of time, I was on the phone often talking with Mr. Tucker about his progress and what was needed to get her moved, during this time my sister was living in a deplorable condition and her health was extremely poor. Our goal was to get her moved and out of 14 B Ave SW so that she might receive proper medical and nutritional food to improve her health. At the same time Mrs. Gibbs was reluctant to move, because she had developed a fixation on the family property due to her close relationship with our mother, Mrs. Emma O. Ackerman. Mr. Tucker came up with a plan to do the repairs on Arlington Drive to encourage Mrs. Gibbs to move. Mr. Tucker and I did not discuss the long-range goal of the city to destroy the property with her. The move was accomplished in late November or early December of 1998. Mr. Tucker carried out his plan and honored all the things he stated that he would do to accomplish this move. The family is very appreciative and blessed that Mr. Tucker was there to assist Mrs. Gibbs in the move. A special thanks to Mr. Tucker.

Since Mr. Tucker and I did not discuss the move in advance of Mrs. Gibbs actual moving, she was not prepared to take the bulk of her things with her. She only took a few things that she would need immediately to get set up in the Arlington place with the understanding that she would be able to return to 14 B Ave SW to sort through her things and at that time she could select furniture, artifacts, pictures, clothing, and other items that she wanted to move to the new address. The renovation on the house on Arlington Drive was not completely done when she moved in so things moved slowly in getting the things left behind in 14 SW B Ave SW. In January 1999, my other sister, Mrs. Emma A. St. Bernard and I visited Lawton to check on Mrs. Gibbs. At this time, Mrs. Gibbs' health had deteriorated and she could barely walk. While we were in Lawton, she gave us a list of things to secure from 14 B Ave SW; soon thereafter, Mrs. Gibbs would require help in walking and in meeting her daily personal needs. We suspect that she was medically depressed, but we were not aware of the effects of depression on her psychological well-being.

In late June she was admitted to the hospital and she was there when the city tore down the house without notification. When Mrs. Gibbs discovered that the house had been destroyed, she was heart broken and sadden since she did not have an opportunity to secure all of her treasured items from the house. I was informed of the destruction by a friend who lives in Lawton. After learning of this situation, I started calling the City, Mr. Adams, and others whom I thought could verify the destruction of the house. I called Dan Tucker's office and I spoke with Mr. Dennis Woommavovah in the Department of Planning and Zoning, he informed me that house had been torn down and everything had been destroyed, except a few pictures, but he didn't know where the pictures were or who took them. The family has not received the pictures, nor do we know who to contact about the pictures. After talking with Mr. Woommavovah, I started writing letters to the Mayor, to

each Councilman, State Senators, and to others to secure information on my this had happened, since we had established such a wonderful working relationship with the city at the beginning of this case.

Mr. Frank Pondrom, Director of Housing and Community Development Department, responded to my letter and he stated that he would forward my letter to Mr. Dan Tucker, Director of Code Administration for the City of Lawton. Later, I had the opportunity to speak with Mr. Tucker and Councilman John Purcell, but they were not helpful or concerned about the demolition of the property. However, all other City officials, except for Mr. Pondrom, ignored my letters. Later, after several months, City Attorney John Vincent responded for the whole city. In essence, City Attorney John Vincent stated that the "city had a right to tear the building down without notification." He claimed that notification was given in 1998 when the property was condemned. Now we know that this statement is contrary to the Codes of the State of Oklahoma.

It was shocking to learn that not one City Councilman had the courage to step to the plate and admit that the city had made a mistake in not notifying the family of its date to destroy the property as required in Oklahoma Code, Section 22-112.1A [1019 O.S., 1991; 11/22-112.1]. The City could have boarded up the property and sent a letter stating their concerns with a proposed date for its destruction, this way we could have made arrangements to secure the family heirlooms from the property. Also, the notification would have given us time to appraised the City of our on-going negotiations to sell the property. It takes great courage and integrity to do the right thing!

Now that the City Councilmen have the facts on the case, we are hopeful that the City of Lawton will correct this mistake by paying the family the full market value of the property (\$24,550.00), from which the City will be paid \$7,727.42. This just settlement will bring the case to closure.

Thanking you in advance for your time! I regret that I could not be in Lawton in person to present this message to you.

Sincerely,

s/Queenie E. Raymond

Queenie E. Raymond

Attachment was a reply to Ms. Hedy Jackson's recommendation to the City Council"

Purcell said when Council got the first letter Ms. Raymond referred to, he spent over 30 minutes on the phone with her calling long distance to Maryland, and explained to her the reasons for the Council's action. He said he told her he was present at the meeting when Mrs. Gibbs was in the audience and Council condemned the building; they knew in advance the building had been condemned, but thanks to Mr. Tucker and others in the community, we did not tear it down immediately and gave plenty of time so the new building Mrs. Gibbs was to move into could be prepared and she moved. Purcell said he got the impression from the phone call that they were only looking for money and he told her he thought that was wrong, so that may have been regarded as his lack of concern she replied in the letter. He said all of the rules were followed in notifying them and we did everything we could to help the lady.

Vincent said he wanted to answer question about the property, we notified Mrs. Queenie Raymond that one of her relatives had secured a storage area and the property was moved out of the house before it was demolished, and we did notify her of that fact.

MOVED by Purcell, SECOND by Smith, that we deny the claim.

Smith said he was flatly appalled by the letter and they were fully informed during the entire process, not only informed but staff went totally above and beyond the call of duty to go well out of their way to help these people.

VOTE ON MOTION: AYE: Shanklin, Moeller, Baxter, Smith, Hanna, Devine, Purcell. NAY: None. ABSTAIN: Haywood.
MOTION CARRIED.

BUSINESS ITEMS:

2. Hold a public hearing on the 2000 Department of Justice Block Grant and approve the proposed expenditure of these funds. Exhibits: List of suggested purchase items.

Bill Adamson, Police Chief, said the public hearing is required by the Department of Justice for expenditure of funds through the 2000 block grant, and the expenditure must be in the areas of equipment and technology. Lawton is a disparate jurisdiction, requiring funds to be divided in certain ways after negotiation with the County Sheriff's Department, and a similar portion of the amount funded was allowed to the Sheriff's Department. The total received will be \$135,424; \$15,047 must be matched and those funds are in the Police Department budget. Adamson said the board members, listed in the commentary, reviewed the items to be purchased and gave its approval.

Purcell said he did not see cameras and asked when we would ever start putting cameras in cars. Adamson said it is not listed here, cameras can be added to requests for cars in the budget if Council so desires and it is an expensive item. Purcell said it was recommended not to get cars with cameras already in them but to put the cameras in after the fact. Purcell said he did not want to go against the board's recommendation but that some thought should be given in the not too distant future to start putting in some cameras because it would be helpful for the public and Council to see what goes on, and what officers are up against.

Baxter asked how much the cameras cost. Adamson said it may be about \$2,600 or \$2,800. Baxter asked what two wheel

drive ATV's would be used for. Adamson said one would be assigned at each lake for off road areas that are not as accessible, such as shore lines.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Smith, SECOND by Haywood, to approve the proposed expenditures of the block grant funds. AYE: Moeller, Haywood, Baxter, Smith, Devine, Purcell, Shanklin. NAY: None. OUT: Hanna. MOTION CARRIED.

3. Hold a public hearing and consider an ordinance amending Sections 18-212 and 18-803, Chapter 18, Lawton City Code, 1995, modifying street curb requirements and Figure 1, Chapter 18, Lawton City Code, 1995, amending the minimum number of curb openings allowed and declaring an emergency. Exhibits: Ordinance 00-36; CPC Minutes.

Bob Bigham, City Planner, said this ordinance amends two sections in Chapter 18, the first one dealing with Section 18-803L which currently requires that when a building permit is obtained and there is not a concrete curb in front of the place of development that the developer must install the curb. He said there is very little flexibility in the Code right now and the suggested change is that the City Manager or his designee be authorized to waive all or part of this requirement; if the administration does not do that, the applicant can appeal to the Board of Adjustment.

Bigham said the second part is correcting a typographical error dealing with the number of curb cuts permitted. In Figure 1 of the Code, currently between 301 and 700 feet, the Code currently allows only two driveways, and it should have been three, that was how it was presented in the original adopting ordinance. Bigham said the Planning Commission, on September 14, held a public hearing and recommended Council adopt the ordinance.

Mayor Powell said the second part was to correct a typographical error and the first part was to let the City Manager make a decision on this where there are non-existent curbs. He said there has been a lot of heartburn over this in the last couple of years and he personally supported this 100%.

Purcell asked if this is passed, and being very specific, an example would be a lot that is 91 to 100 feet frontage, talking about one and two family dwellings, the minimum and maximum widths of the openings could be anywhere from 10 feet to 38 feet; he asked if that was correct. Bigham said yes. Purcell asked if this is approved and someone wants their opening to be 45 feet, and we have had this in the past and know where the issue is, what happens at that point in time. Bigham said there are provisions below the chart, and one deals with 35 feet being the maximum driveway width for a commercial or industrial business, however, an administrative variance to 50 feet can be granted when it will be primarily used by heavy trucks. Bigham said in other cases, it could go before the Board of Adjustment. Purcell said if a person does not like the Code and wants an exception, they can go to the City Manager; he asked if that was what he understood Bigham to say. Bigham said no, the first part deals with the mandatory curb requirement; if you do not have a curb in front of your development, the Code currently requires that curb to be put in. Bigham said under the first section in 18-803L, this gives the City Manager or his designee the ability to waive all or part of that curbing requirement and that is part one; and the second part is just amending Figure 2 which deals directly with the number of curb openings allowed in front of a piece of property that is being developed.

Purcell said his original question was, if he wanted to have a width of a driveway on a 91 to 100 feet frontage, 10 to 38 feet is in the ordinance, but he wants to put in a 45 opening, what happens. Bigham said the building permit is denied and the applicant is afforded the ability to appeal that to the Board of Adjustment. Purcell asked if the only way it can be bigger than that is to go to the Board of Adjustment. Bigham said yes.

Devine asked Bigham if this would eliminate the problem that came up on Jesse Cobb's property. Mayor Powell said yes. Bigham said it will provide the City Manager or his designee the ability to administratively waive all or part of that requirement.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Devine, SECOND by Smith, to accept this, adopt Ordinance 00-36, waive reading of the ordinance, read the title only, and declare an emergency.

(Title read by Clerk) Ordinance 00-36

An ordinance relating to zoning amending Section 18-212, Chapter 18, Lawton City Code, 1995 (as amended by Ordinance Nos. 97-01, 98-14 and 98-43) modifying variances for street curbing; amending Section 18-803, Chapter 18, Lawton City Code, 1995, modifying the requirement for street curbs; amending Figure 1 of Section 18-808, Chapter 18, Lawton City Code, 1995, amending the maximum number of curb openings allowed; providing for severability, and declaring an emergency.

VOTE ON MOTION: AYE: Haywood, Smith, Devine, Purcell, Shanklin, Moeller. NAY: None. OUT: Baxter, Hanna. MOTION CARRIED.

4. Hold a public hearing and consider an ordinance amending Section 18-646, Chapter 18, Lawton City Code, 1995, adding automobile paint and body shops as a permitted use in I-1 (Restricted Manufacturing and Warehouse District) and declaring an emergency. Exhibit: Ord 00-37.

Bigham said this ordinance originated from discussion during a rezoning submitted by Jim and Betty Liston that was considered at the last Council meeting. He said this will allow a paint and body shop in an I-1 district without a retail activity to be a permitted use. Bigham said the Planning Commission, on September 28, held a public hearing and recommended approval to the City Council.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Smith, SECOND by Hanna, to approve Ordinance 00-37, waive reading of the ordinance, read the title only, and declare an emergency.

(Title read by Clerk) Ordinance 00-37

An ordinance related to zoning amending Section 18-646, Chapter 18, Lawton City Code, 1995, adding automobile body and paint shops as a permitted use in I-1 (Restricted Manufacturing and Warehouse District) and declaring an emergency.

VOTE ON MOTION: AYE: Baxter, Smith, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood. NAY: None. MOTION CARRIED.

Shanklin asked Tucker if they could have been given a permit to start work 20 or 30 days ago knowing this would come before the Council on the paint and body shop. Tucker said this is not necessary to go forward with the remodel. Shanklin asked if they wanted to build a paint and body shop and Tucker said yes. Shanklin asked if they could not even start that and were held up two or three weeks before this procedure. Tucker said they could have started building the structure but they would not have known what it could have been used for, the property was rezoned but the use they had intended for their lessee had to be an approved use. Shanklin asked if something comes up that we have not covered and it will take a month or six weeks, will we let them start. Tucker said they can start on the building but he could not guarantee Council's action on the actual occupation of the building, but they could build it and put the materials in later. Shanklin said it has been a long time, and time is money and heartache.

Bigham said when Mr. Liston came in to see him about this issue, it dealt with a second building on this property and did not relate to the other building that is going to house the paint and body shop. He said they tried to get the rezoning started for that so he could obtain a building permit for an entirely new building on the second lot that is currently vacant, but during that discussion of the rezoning was when Bigham discovered there would be a paint and body shop in the existing building, so we were focusing on one issue and the other issue popped up in the middle of the discussion.

5. Consider adopting an ordinance amending Section 6-503, Chapter 6, Lawton City Code, 1995, as previously amended, by defining dilapidated buildings in conformance with State law. Exhibits: Ordinance 00-38.

Vincent said they had been researching the dilapidated building issue, in conjunction with Tucker's office, and there will be an ordinance at the next meeting that Shanklin had requested declaring the phased building permit situation, and this goes along with that. Vincent said this defines dilapidated building and brings the definition into conformance with State law. He said a spelling error had been corrected, and he recommended approval of the ordinance.

MOVED by Shanklin, SECOND by Smith, to approve Ordinance 00-38, waive reading of the ordinance and read the title only.

Smith asked if this completely complies with State law 100%. Vincent said yes and there will be one other change to be brought back at the next Council meeting.

(Title read by Clerk) Ordinance 00-38

An ordinance relating to existing structures, amending Section 6-503, Chapter 6, Lawton City Code, 1995, as previously amended, by defining dilapidated buildings in conformance with State law.

VOTE ON MOTION: AYE: Smith, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Baxter. NAY: None. MOTION CARRIED.

6. Consider approving residential street improvements from the 1995 CIP. Exhibits: Residential Street Priority List.

Moeller said a list of streets had been prioritized by the Street Division and Public Works Department; 12 streets were identified as being in need of repair or reconstruction and Ihler has pictures of one. She said the 1995 and 2000 CIP's had no funds for residential street reconstruction, and since some money is left, she asked that the streets be considered. Moeller said six are in Ward 6, three in Ward 7 and three in three other wards; two are very expensive, one being \$416,000 and the other \$500,000. She suggested taking a third, or roughly \$1 million, and going down the list, and doing the first five streets.

Shanklin asked if two streets were in Ward 6. Moeller said six are in Ward 6; of the first five, three are in Ward 6; 75th Street, Crystal Hills and Hunter Hills; number two is in Ward 7, SW Wendy, and number four is very expensive for NW 36th Street on Kinyon to Ferris and Ferris to 35th and 36th Street, which is in extremely bad shape. Shanklin said he did not have that much heartache with it if staff says that these are the 12 worst streets in Lawton. Moeller said they were identified by the staff. Shanklin said this is not pork barrel but if we have \$3 million and Moeller wants it all in her ward, what would she do for him. Moeller said she would like to take the first five streets in priority of need, although she would

love to have it all in Ward 6, but it should be taken in priority of need.

Purcell agreed street repairs were needed, as well as setting up priorities on the 1995 CIP before it is all spent. He said water pipes are in bad shape also; sewers are being taken care of through another program. Purcell said the street list is done, a water pipe list is needed, and then an overall priority list for the remaining funds. He said the City Manager had asked the Public Works Director to bring back a mini-CIP of \$10 million, but \$5 million would probably be plenty, with just streets and water pipes, unless other members have other items. Shanklin said he hated to see us let that money burn a hole in our pockets.

MOVED by Devine, to table this until Mr. Baker has his plan in place that he was going to bring to us on his priorities and we can wait two weeks.

Devine asked if it could be ready in two weeks and said it should not cause harm to wait that length of time. He said he was sure the City Manager would take this into consideration, plus the water problems. Devine said he was not trying to knock Moeller out of it and knew the streets needed to be done, and that he would like to see the staff plan before making a decision.

Baxter seconded the motion to table.

VOTE ON MOTION: AYE: Hanna, Devine, Purcell, Baxter. NAY: Shanklin, Moeller, Haywood, Smith. TIE VOTE, MAYOR POWELL VOTED YES, MOTION CARRIED.

7. Consider request from the Bureau of Indian Affairs and provide comments on acquisition of property into tribal trust land, and authorize the Mayor to comment to the Bureau of Indian Affairs. Exhibits: Letter from BIA; Location Map; Proposed Letter.

MOVED by Smith, SECOND by Baxter, to table this item. AYE: Devine, Purcell, Shanklin, Moeller, Haywood, Baxter, Smith, Hanna. NAY: None. MOTION CARRIED.

8. Consider a resolution declaring a "Public Purpose" and consider authorizing expenditure of public funds to support five members of the Lawton Fire Department's participation in the Firefighter Combat Challenge World Finals. Exhibits: Letter from Firefighter Combat Challenge Team; Letter of response and recommendation from the Fire Chief; Resolution 00-101 declaring "Public Purpose" authorizing expenditure of funds.

Don Barrington, Fire Chief, said the item is for a team of firefighters, identifying themselves as a firefighters combat challenge team, and a response and recommendation was included in the agenda item.

Baxter said he added up the request, and there was no price shown on the per diem so he put in \$500, and it came up to about \$3,600. He said the note from the Chief shows the price \$9,575 and asked why it went up \$6,000. Barrington said overtime would have to be paid to those who will work during the absence of the members; vacation has been requested prior to this and the average cost per day, for a 24 hour day, per individual to be called in on overtime is \$545, and times ten is \$5,450, so that would be added to their cost and it came out to \$9,575. Devine said it was rounded off to \$9,600.

Purcell asked if everyone in the Fire Department was given an opportunity to participate. Barrington said he could not answer and thought the team put themselves together, they wanted to compete regionally and he did not know if they expected it would go this far. Mayor Powell said they will have an opportunity to speak to that.

Moeller asked if there was any other source of raising funds to help them go besides this. Barrington said he did not know if the local union was providing any funds to support it or if they had conducted fund raisers, and maybe one of the team members could answer.

Mark Murphy, Lawton firefighter and member of firefighter challenge team, said in his opinion they were not self-appointed; this has been going on for three years he could remember and the first ones were a deputy chief and a couple of firefighters who went to a competition and people just filled spots as they went. He said you are allowed five members on a team, you can have as many teams as you want, and they are trying to get more people involved so they can have a better showing at the competitions. Murphy said Altus has three teams, Oklahoma City has several teams, women teams and men teams, and the team going this year from Lawton will try to qualify in two different events next year.

Murphy said they have gone to several regional events and in August in Dallas they qualified to go to the world finals in Las Vegas. He said there was a question about workers' comp and a firefighter in 1994 had gotten hurt and it came back on the City. Murphy said he submitted a paper to the Mayor and in that they had all agreed that they would sign waivers excusing the City and they would not hold the City responsible if they did happen to get hurt, and he did not know how legal that was but they were willing to sign whatever it takes to not hold the City responsible in that case.

Mayor Powell said a couple of firefighters came to his office and visited with him about it and said they would like to have Council participation as far as monetary support is concerned. Mayor Powell said they told him they would sign waivers as far as workers' comp was concerned, and that he asked if the events were fire related, and in deed all of them are fire related things they might be subject to do at any point in time in fighting fires. Mayor Powell said he told them he would be happy if they put a paper together saying exactly what it is, and they have paid all of their expenses for two or three years

so it is not just something that started this year, and he told them if they would get a letter he would take it to the proper persons, so that is the history of how it got this far.

Murphy said the events are a five-story tower where the members wear bunker gear, breathe from air tanks and carry a 50 pound hose up a five-story tower and come back down; hit a 125 pound I-beam with an eight pound plastic sledge hammer, drive it six foot back between our legs, run an obstacle course and pick up a hose line with water in it and pull it 100 feet, hit a target with it; then pick up a manikin that is 175 pound dead weight and drag it 100 feet backwards. The ideal goal is to finish in the least amount of time and Lawton's team averages 2.10 to 2.20 minutes. Combined score must be seven minutes or under between the top three firefighters to qualify to go to the world finals.

Murphy said on the paper he submitted, the total he had on the hotel, airfare, per diem and entry fee, which is what they are asking for, is \$3,405. He said on the paper he first sent, the Mayor asked him to get prices so he called travel agents but after checking further, the airfare and hotel prices were lower, which caused the total price to be \$3,405. Mayor Powell said the Chief mentioned there will be overtime in addition to that. Barrington said if they are requesting to be allowed time off, there will be overtime involved. Murphy said he had figured \$500 per shift for overtime and the Chief figured \$545, and with the people who are taking off, the way the different shifts work out, some will only have to take off one-half of a shift and others will have to take off two full shifts, and he came up with \$4,000.

Murphy said one letter showed they would be off for six days and they were asking for four days, which are the actual days of the event. He said they will fly out on October 31, the day before the event starts because it at 10 a.m. the next day, and fly back on Saturday night, which is the end of the event and hopefully the plane would not leave until they were finished. Mayor Powell asked the other firefighters if there was anything Murphy had left out; there was no response.

MOVED by Smith, SECOND by Baxter, to declare this a public purpose and fund this out of Council Contingency for \$8,000. (amended below)

Purcell asked if they would take vacation or sick leave for the four days, or if they would still be considered to be working and that would cause the overtime to come in. Murphy said he was asking for non-chargeable days off and that is where the overtime comes in.

Purcell asked the City Attorney if this is approved and, for some reason, we do not approve it next year, will a precedent have been set to cause the City to be legally bound, or can it be stated that it would be a one-time thing. Vincent said the memorandum suggested that a MOU be drafted stating it would not create a past practice and it would be done on a case by case basis in the future, and he suggested that be part of the motion. Smith and Baxter agreed to add that language to the motion.

Shanklin said regarding a waiver being signed to relieve the City of responsibility on workers' comp, the firefighters cannot sign away the rights of their spouses and families. Vincent said they were not concerned with that, they will be performing a City function so if they get injured, workers' comp would be appropriate.

Shanklin said the City Manager and Fire Chief denied the request. Baker said he did not want to be the person to wear the black hat and appreciated the efforts the firefighters had made and congratulated them on how far they had gotten. Baker said he stated in the commentary that he recommended disapproval, the Fire Chief recommended disapproval, and he had mixed feelings because he would like to be supportive of the effort because it brings credit to the City and the department. Baker said declaring it a public purpose is the Council's prerogative and the City Attorney had advised him that this could be considered a public purpose, so that is the first thing to be resolved. He said it is not budgeted, it will have a negative impact on the needs of the service, and it could be viewed by other City employees as preferential treatment because the City would be paying to send a small group of employees to an activity which is not a sanctioned, City budgeted activity, and it may be setting a precedent for other employees groups. He said other employee groups might want to get involved in any number of activities and competitions and if you pay \$5,000 or \$7,000 for these firefighters, you would probably have to do it for those employees in the future also, so it is setting kind of a dangerous precedent, even though you might get an MOU that it will not be a past practice with the fire union, you have other employee groups that may be interested in other types of competition that would form a team and come to the City to provide for part of their expenses. Baker said he would defer to Council's decision and recommended disapproval.

Smith said he thought the fire union deserved this, not so much because of the union and that he had made his feelings toward that perfectly clear, but these guys earned this. He said in his opinion they would be looking for other ways to support it in coming years by developing funding for themselves and that he would certainly help, and everyone loved to go to golf tournaments.

Devine said he did not see anything different in this than anything else that goes on in the City, because everybody has their little things that they get from the City, a privilege that you have from supervisors all the way down, for extra vehicles to drive back and forth to work, that is part of the job that you get. He said he hoped we would have other City employees who would have the initiative to try to get involved in things, and that is just helping our community, not just for the fire department, and he was talking about the police officers, they go different places, they have always went to their national police olympics and he was sure somewhere down the line that they shuffled the book around where they got to take off on their days and got paid for going that we don't know anything about because he had been there and he had done that, so he did not see anything wrong and thought Council needed to help these people. He said maybe we are opening our pocketbook but these guys don't mind to step up there and open their pocketbooks to help everybody in the City of Lawton

for all of their good activities that they have and the fund raisers.

Shanklin said he did not want to be negative but he had five calls not to spend the money and no calls promoting it.

SUBSTITUTE MOTION by Shanklin, SECOND by Haywood, to fund \$4,000 with the MOU contingency.

Shanklin said that is \$1,000 more than Altus, and he was satisfied they could get the money and maybe next year there will be a full representation of the Fire Department, and someone has to initiate it and he had no problem with that. Purcell said they only need \$3,405 for expenses, and the other costs are in the budget or an IOU for the overtime, and the cost of that is not known exactly.

Haywood asked how many teams there were from Oklahoma City. Murphy said he did not know the exact number, but when they competed in Dallas, Oklahoma City had two female teams and two male teams and possibly more. Haywood asked who paid their expenses when they went to Dallas. Murphy said everyone paid their own expenses to Dallas and all regional events. Haywood asked if everyone was invited to do this. Murphy said everyone had the opportunity; only five people can be on a team but you can have as many teams as you want and they were trying to get more teams together.

Shanklin withdrew his motion and Haywood withdrew the second to that motion.

SUBSTITUTE MOTION by Purcell to declare this as a public purpose and fund \$3,405 to pay their way out of Council Contingency, and overtime would be an IOU.

Shanklin asked if Murphy could get help from other staff to see that it does not cost time and a half. Murphy said that could be arranged and they are able to have other firefighters work in their spot.

Mayor Powell asked if Smith would change his motion to say "up to \$8,000" and Smith agreed.

SUBSTITUTE MOTION by Purcell, SECOND by Shanklin, to declare this a public purpose and fund \$3,405 out of Council Contingency.

Purcell said if overtime is required, funds are there to pay overtime just like for any other need. Shanklin said the Chief should acknowledge the overtime. Barrington said the total figure in his memo included the overtime and all you need out of pocket is \$3,405. Shanklin said that \$5,400 is time and a half for ten shifts. Mayor Powell said we do not know what that figure is going to be yet. Shanklin said they will have people work in for them. Barrington said if Council wanted to approve for him to allow them the time off, then it will cost overtime, but if the motion is contingent upon them getting people to work for them to cover them, it would not cost us any overtime. Mayor Powell said that was why he said the motion would be up to \$8,000 and that would take care of that "if" because we do not know the figure on that yet. Shanklin said we will know the figure if they only get \$3,405. Barrington said if you give them the \$3,405, the budget will absorb the overtime if overtime is used and that is where the IOU comes in.

Vincent asked the Finance Director if the motion is approved as written, as he understood the budget process, we would have them fill out requisitions and travel vouchers and handle it like a normal City trip. Livingston said that would appear to be the case. Vincent said we would not be giving them a check and he wanted that to be cleared up.

Mayor Powell asked if all substitute motions had been withdrawn. Purcell said no, he did not withdraw, his was for \$3,405 and declare a public purpose and let them go, and the Chief could have an IOU for overtime. Moeller said she would second that if there was not a second.

VOTE ON SUBSTITUTE MOTION: AYE: Purcell, Shanklin, Moeller, Haywood, Baxter, Smith, Hanna, Devine. NAY: None. SUBSTITUTE MOTION CARRIED.

(Title only) Resolution 00-101

A resolution declaring the participation in the World Finals Firefighter Combat Challenge a public purpose.

9. Consider authorizing Enercon Services, Inc. to perform a Phase II Environmental Site Assessment and to prepare Restoration Bid Specifications for the abandoned Wastewater Treatment Plant site. Exhibits: Letter Agreement dated October 2, 2000 from Enercon Services, Inc.; Letter Agreement dated April 3, 2000 from Enercon Services, Inc.

Jerry Ihler, Public Works Director, said the Right of Way Agent, City Manager and himself visited the School Land Commission initiating discussion on the proposed site of the Southeast water treatment plant. He said the Commission felt strongly that Lawton should move forward to remediate the site of the old wastewater treatment plant which was abandoned in 1978. Council approved authorization for phase one in April 2000 for the environmental assessment by Enercon Services. This item is for phase two of the environmental assessment and preparation of bid specifications to restore the site so bids can be advertised at a late date. Mayor Powell asked if this is for phase two as well as bid specifications. Ihler said yes.

MOVED by Moeller, SECOND by Hanna, to approve the recommendation. AYE: Shanklin, Moeller, Haywood, Baxter, Smith, Hanna, Devine, Purcell. NAY: None. MOTION CARRIED.

11. Consider revision of Council Policy 1-6, Council Rules of Procedure, related to roll call vote. Exhibits: Proposed change to Council Policy 1-6.

Baxter said he asked the City Attorney to prepare the item. He said it has not been used very much on the Council floor, but a "pass" vote should not be allowed, in his opinion, because it creates too much power for that individual. Baxter said if an individual chooses to pass on an issue that is going to be a four to four vote or five to three vote and they pass in order to vote last, then that particular Council member has a lot of power to decide how a vote could go. He said when your name is called to vote, you should be made to vote yes, no or abstain. Baxter said he did not want to wait to see how Shanklin voted so he could vote the same, or pass so he could vote last and make it four to four or five to three. Shanklin said a member can abstain and then ask to vote before the Mayor announces the roll call, and that is allowed under Council policy. Vincent said the Rules of Procedure allow for a member who has voted to change his vote up until the point the Mayor announces the official vote.

Purcell said in all parliamentary procedure you can abstain or pass. He said he was not sure what Baxter was trying to accomplish but if you cannot pass, you can abstain and then change the vote, or you could vote yes and change your vote to no, or you can tell the City Clerk to call your name first or last. Baxter said it was not any good to be able to tell the City Clerk you want to vote last. Baxter said it was not right for someone to pass to see how Shanklin votes and then vote. Shanklin said he never had yet.

Moeller said Baxter was assuming that was why a person was passing and it may not be. She said Council gets several items at the last minute and there may be times when a little more time is needed to make a decision but that she would vote the way she felt it should be voted. Baxter asked how long it takes to call the roll and Smith said five or ten seconds. Baxter said that is not much time so that is a bogus answer and Moeller disagreed.

Haywood said he and Purcell attended a meeting on effective meeting techniques, and he had some books on it. He said the instructor in the class said a pass vote was allowed and the members know how to conduct themselves.

MOVED by Purcell, SECOND by Moeller, to deny the change to Council Policy 1-6. AYE: Moeller, Haywood, Smith, Hanna, Devine, Purcell, Shanklin. NAY: Baxter. MOTION CARRIED.

12. Consider approving a contract with Bell Books for RFPCL01-34: Centennial Book. Exhibits: Proposed Contract.

Baker said the book committee of the Mayor's Centennial Task Force reviewed the proposals and recommended award to Bell Books of Rich Hills, Missouri. At the September 26 Council meeting, the proposal was awarded to Bell Books subject to successful negotiations of a contract, which is submitted for approval. The book is being written and prepared locally and Bell Books will provide the final preparation and printing. Any time prior to January 15, 2001, the contract can be canceled and the City will not be obligated to pay anything other than nominal expenses the company has sustained. A minimum of \$28,000 will have to be encumbered if the contract is approved, because the price is based on the number and length of the books; cheapest would be 1,000 books at \$28 per book. There is a possibility that if 3,000 books are sold and they are lengthy books, you could spend \$50,000, but funds would come back from the sale of the books. Mayor Powell said the funds would come back to the Centennial Fund.

MOVED by Smith, SECOND by Haywood, to approve the contract with Bell Books.

Purcell asked if the City wrote the contract and Vincent said yes. Purcell said he understood it was standard to include that a company would be not held responsible for items beyond their control, but he disagreed with including the strike because a strike is between the company and their employees, so he suggested that be deleted. Vincent said the company does not control the paper supply, for example, and they are using a special paper, so if the paper company employees are on strike, the book company did not want to be held responsible. Mayor Powell said the paper was an issue with the committee. Purcell said he could understand if it was a strike by someone else and not this company.

VOTE ON MOTION: AYE: Haywood, Baxter, Smith, Hanna, Devine, Purcell, Shanklin, Moeller. NAY: None. MOTION CARRIED.

13. Consider adopting an ordinance amending Chapter 19, Lawton City Code, 1995, Section 19-4-411 relating to elk hunting on specified City property and declaring an emergency. Exhibits: Ordinance 00-39.

MOVED by Smith, SECOND by Haywood, to approve Ordinance 00-39, waive reading of the ordinance, read the title only, and declare an emergency.

(Title read by Clerk) Ordinance 00-39

An ordinance relating to hunting on City property, amending Section 19-4-411, deer and elk hunting on City land, Article 4, Chapter 19, Lawton City Code, 1995, by establishing a procedure for the selection of recipients of elk hunting permits pursuant to a City Council policy, providing for severability and declaring an emergency.

VOTE ON MOTION: AYE: Baxter, Smith, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood. NAY: None. MOTION CARRIED.

ADDENDUM: 1. Consider adopting an ordinance amending Section 19-143, Chapter 19, Lawton City Code, 1995, eliminating hunting in the area of the recreational vehicle race track at Lake Ellsworth; amending Section 19-603, Chapter

19, Lawton City Code, 1995, eliminating the prohibition of the operation of recreational vehicles during certain times of the year; providing for severability and declaring an emergency. Exhibits: Ordinance 00-____.

MOVED by Smith, SECOND by Shanklin, to table the item. AYE: Smith, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Baxter. NAY: None. MOTION CARRIED.

ADDENDUM: 1. Consider approving a cooperative agreement and an agreement for limited services between the City and the City Transit Trust to provide funds for implementation of a public transit system. Exhibits: Cooperative Agreement; Agreement for Limited Services.

MOVED by Smith, SECOND by Baxter, to approve the cooperative agreement and the agreement for limited services with the City Transit Trust. AYE: Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Baxter, Smith. NAY: None. MOTION CARRIED.

CONSENT AGENDA:

15. Consider the following damage claim recommended for approval: Dwayne and Sheila Blevins. Exhibits: Legal Opinion/Recommendation. Action: Approval of claim of \$58.00.

ITEM 16 WAS CONSIDERED SEPARATELY AS SHOWN BELOW.

17. Consider ratifying the actions of the City's Workers' Compensation attorney in settling the claim and authorize the City Attorney to file the judgment to make payment in the Workers' Compensation case of Alberto G. Gurrero in the Workers' Compensation Court, Case No. 98-9076A. Exhibits: Resolution 00-102.

(Title only) Resolution 00-102

A resolution ratifying the actions of the City Attorney in making payment of the judgment in the Workers' Compensation case of Alberto G. Guerrero for the amount of Twenty-Five Thousand (\$25,000.00), per order of the Workers' Compensation Court, and filing a foreign judgment in the District Court of Comanche County for purposes of placing said judgment on the tax rolls.

18. Consider authorizing the City Attorney to initiate litigation against Jared Adey to recover damages sustained by the City in a vehicular accident causing damage to City property. Exhibit: None. Action: Authorize the City Attorney to initiate litigation against Jared Adey to recover damages sustained by the City in a vehicular accident causing damage to City property.

19. Consider ratifying action of the City Manager to approve agreement with Fort Sill for loan of government property for Kid's Zone Project. Exhibits: Agreement. Action: Approval of item.

20. Consider denial of requests for the installation of traffic control devices just east of NW 24th and north of Gore and on SE Walnut Creek. Exhibits: Excerpt of draft 9/21/00 Traffic Commission Minutes. Action: Denial of request.

21. Consider awarding a contract for professional architectural services for the Elmer Thomas Park Master Plan. Exhibits: None. Action: Award a contract to Alaback Design Associates, Inc. in the amount of \$10,000.00.

22. Consider setting a date of November 14, 2000, to hold a public hearing and consider an ordinance closing the SW C Avenue right-of-way between 26th and 27th and the west 350 feet of the alley in Block 11, College Addition, submitted by Cameron Baptist Church. Exhibits: Application; Map; Council Policy 5-1; Proposed Building Phases. Action: Approval of item.

23. Consider accepting eight (8) permanent utility easements for the Flower Mound Road Waterline Project. Exhibits: None. Action: Accept easements from: Clara A. and Edward C. Hunt; Velma Kuntz, formerly Velma Marburger, and Elmo Kuntz; Roger R. and Debra S. Marburger; Perry Broadcasting of Lawton, Inc.; Gary D. and Dolli S. Thomason; Oleta Turner; Clyde E. and Rowena Weber; George W. and Amanda K. Weber.

24. Consider awarding a contract for professional services for the City of Lawton Water Rate Study and identify a funding source. Exhibits: None. Action: Award a professional services contract to Black & Veatch Corporation in the amount of \$52,900 and fund from the Lawton Water Authority.

25. Consider adopting Council Policy 9-2, Permission to Hunt Elk on City Land, regarding the procedure for granting permission to hunt elk on specified City of Lawton property. Exhibits: Council Policy 9-2; December 2000 Elk Hunt Permit Announcement. Action: Approval.

26. Consider ratifying the action of the Lawton Water Authority to acknowledge receipt of approval of vertical expansion of the Landfill from the Oklahoma Department of Environmental Quality (ODEQ) and authorize the Mayor and City Clerk to sign the acceptance. Exhibits: DEQ letter dated January 26, 2000; FAA letter dated September 21, 2000. Action: Approval.

27. Consider approving Change Order No. 2 for the Robinson's Landing Lift Station and Restroom Facility Construction Project #200-5 with M. L. Young Construction Corporation. Action: Approval. Change Order 2 modifies electrical system for restroom and lift station, increases contract price by \$7,456.63 and adds 21 days to completion time.

28. Consider acknowledging receipt of permit from the Oklahoma State Department of Environmental Quality for the construction of waterlines with appurtenances to serve the Braum's Ice Cream Company. Exhibits: None. Action: Approval. (Construction of nine lf of 6" and 385 lf of 12" water line with appurtenances)

29. Consider acknowledging receipt of permit for the construction of 13,200 linear feet of eight (8) inch water lines and appurtenances from the Oklahoma State Department of Environmental Quality to serve the 2000 CIP Waterline Replacement Project #2000-12, City of Lawton, Comanche County, Oklahoma. Exhibits: None. Action: Approval.

30. Consider acknowledging receipt of permit for the construction of 24,800 linear feet of eight (8) inch water lines and appurtenances from the Oklahoma State Department of Environmental Quality to serve the 2000 CIP Waterline Replacement Project #2000-13, City of Lawton, Comanche County, Oklahoma. Exhibits: None. Action: Approval.

31. Consider acknowledging receipt of permit for the construction of 2,300 linear feet of eight (8) inch water lines and appurtenances from the Oklahoma State Department of Environmental Quality to serve the Wisconsin Avenue and New York Avenue Waterline Replacement Project #2000-30, City of Lawton, Comanche County, Oklahoma. Exhibits: None. Action: Approval.

32. Consider approval of appointments to boards and commissions. Exhibits: Memo.

Stormwater Drainage Appeal Board: O. L. Anderson, Homeowner, Term: 10/10/00 to 9/9/01
McMahon Auditorium Authority: Gary Salva, City Representative, Term: Unlimited

33. Consider approval of payroll for the period of October 2 through 15, 2000. Exhibits: None.

Shanklin asked for separate consideration of Item 16, the Cowan claim.

MOVED by Smith, SECOND by Haywood, to approve the Consent Agenda items as recommended with the exception of Item 16. AYE: Devine, Purcell, Shanklin, Moeller, Haywood, Baxter, Smith, Hanna. NAY: None. MOTION CARRIED.

16. Consider the following damage claims recommended for denial: Ashley and Chess Lamm; Joe and Brenda Hettiger; and Monica Cowan through her attorney, Dan Hutcherson. Exhibits: Legal Opinions/Recommendations. Action: Denial of claims.

Shanklin asked that Monica Cowan be allowed to speak regarding her claim. He said Cowan owns the property at 614 Ferris and that Council would remember the rats in the trees at 612 Ferris.

Monica Cowan, 2113 Lake, said she owns 614 Ferris and that she was not in the state when the notices were mailed or taped to the door; one notice for junk and debris was dated July 3 and a jeep was removed by Alford's Wrecker on July 12, which is not even the ten days given. She said the cinder blocks had been approved once before by Jackie Ward, they were stacked exactly where Ward told Cowan to stack them. Cowan said the notice about the rats was that they were harboring in the trees and the items that were taken, the cinder blocks, the bricks, the jeep, the bathtub, none of that was listed on the notice taped to her door. Cowan said a notice was sent that stated galvanized tubing, piles of concrete, however, that was not stated in the notice that was taped to the door on June 30th. She said there is a discrepancy and she just wanted the items back and she did not understand any of them. Cowan said they were in the process of removing things, had a trailer loaded with brush and junk and the trailer was emptied by the City so they were in the process of getting things out.

Cowan said she had the place rented to a young lady who was there cleaning and she was told she could not be there because they were going to condemn the house, so there were rumors going around about the house being condemned.

Mayor Powell said he went by and told the young lady that she could stay there while they were trying to get Cowan's phone number because there were rumors floating around like that. Cowan said the lady told her that Mayor Powell came by and she was impressed by a personal visit. Cowan said she was in Minnesota when the clean up took place and things that were moved were not listed on the junk and debris; they were cinder blocks that were stacked and approved by Jackie Ward on the west side of the house, and if the rats were in fact harboring in the trees, why were the trees not cut down. Cowan asked that her claim be approved and stated she could not provide receipts because they burned up in her house fire four days before Christmas last year but she could get estimates if needed.

Shanklin said he disagreed that almost 5 tons of debris was hauled off, although it may have been. Vincent said Dan Hutcherson had been to his office and he is representing Ms. Cowan in this claim, and the claim was presented by the attorney for Ms. Cowan. Purcell asked if this was the house that had all of the publicity and phone calls about the rats all over the place. Mayor Powell said it is next door and Alford's Wrecker removed the jeep, and that was how he found out about it. Vincent said two more claims are coming from the purported owner of the jeep and from a person that claims to be the owner of a carpet cleaner. Mayor Powell asked if it was regarding this same claim and Cowan said it is regarding the same house. Mayor Powell suggested considering them all at once. Vincent said because of timing, this claim had to be on this meeting and the other two claims came in later, and we did not know at the time this one was being processed that the other two would be presented. Hedy Jackson, Assistant City Attorney, said the claims were not presented at the same time and there is a 90 day window.

MOVED by Shanklin to table this until we get the rest of the claims in.

Vincent said Ms. Cowan's permission is needed, he saw her shaking her head and asked that she state for the record that we can table this past the 90 days. Monica Cowan said yes, it is OK to table it.

SECOND by Haywood on the motion to table. AYE: Purcell, Shanklin, Moeller, Haywood, Baxter, Smith, Hanna, Devine. NAY: None. MOTION CARRIED.

MOVED by Purcell, SECOND by Smith, to deny the rest of the claims listed in Item 16. AYE: Shanklin, Moeller, Haywood, Baxter, Smith, Hanna, Devine, Purcell. NAY: None. MOTION CARRIED.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER.

Moeller said she had a good ward meeting and appreciated the staff members who attended.

Vincent said the Finance Director filed a claim with the Oklahoma Tax Commission as directed by Council; we have been advised by a letter dated October 5 that the claim was denied. He said a blanket denial was done to all cities. Vincent said he received an action alert from the Oklahoma Municipal League and pursuant to Council direction he would file a request with the Oklahoma Supreme Court to be allowed to join in a lawsuit. The first hearing was today in Oklahoma City before the Supreme Court referee, they have asked for original jurisdiction, and paperwork will be filed to join in that lawsuit tomorrow.

Baker said the Police Department will receive four new Harley Davidson motorcycles and pictures will be in the newspaper. It will be about two weeks before they are out in traffic. It was suggested that the intersections of Sheridan and Cache and 52nd and Lee be patrolled for traffic violations.

Smith said Councilman Devine, City Attorney Vincent and himself and Todd Devine represented the Mayor at the General's Challenge yesterday, lost badly and it was 23 degrees when they started.

Shanklin asked if contact had been made with the State delegation regarding the sales tax claim. Baker said notice was received late this afternoon.

Shanklin asked what the sales tax was for the month. Livingston said it was up 6.38% above the same month last year, and the tax for the first three months of the year is up about 1.5%.

BUSINESS ITEMS:

34. Pursuant to Section 307B3, Title 25, Oklahoma Statutes, consider convening in executive session to receive a briefing on the status of Fire Station #5 relocation project, and if necessary, take appropriate action in open session. Exhibits: None.

35. Pursuant to Section 307B3, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the acquisition of property in the vicinity of Greer Park on 38th Street, and if necessary, take appropriate action in open session. Exhibits: None.

36. Pursuant to Section 307B3, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the acquisition of property in southeast Lawton, and if necessary, take appropriate action in open session. Exhibits: None.

37. Pursuant to Section 307B3, Title 25, Oklahoma Statutes, consider convening in executive session to discuss property involved in the one-way in/one-way out project on the east side of Lake Lawtonka and if necessary, take appropriate action in open session. Exhibits: None.

38. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending damage claim of Lee Carter, filed by and through his attorney Mike Lewis, against the City of Lawton, and if necessary, take appropriate action in open session.

39. Pursuant to Section 307B2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss negotiations for a Collective Bargaining Agreement for FY 2000-2001 between the Fire Union, IAFF, Local 1882, and the City of Lawton, and take appropriate action in open session. Exhibits: None.

MOVED by Smith, SECOND by Purcell, to convene in executive session to consider the items so listed on the agenda and recommended by the legal staff. AYE: Moeller, Haywood, Baxter, Smith, Hanna, Devine, Purcell, Shanklin. NAY: None. MOTION CARRIED.

The Mayor and Council convened in executive session at approximately 9:15 p.m. and reconvened in regular, open session at approximately 10:20 p.m. with roll call reflecting all members present.

Vincent reported on Item 34 that Council entered into executive session to discuss the status of Fire Station #5 relocation, pursuant to Section 307B3, Title 25, Oklahoma Statutes. He recommended a motion to authorize the City Attorney's office to begin negotiations for site six or seven, depending on which map we are looking at.

MOVED by Smith, SECOND by Baxter, to authorize the City Attorney's office to begin negotiations for site six or seven, depending on which map we are looking at. AYE: Baxter, Smith, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood. NAY: None. MOTION CARRIED.

Vincent reported on Item 35 that pursuant to Section 307B3, Title 25, Oklahoma Statutes, we entered into executive session to discuss the acquisition of property in the vicinity of Greer Park. A briefing was received and staff recommendation was to deny the offer and cease negotiations.

MOVED by Smith, SECOND by Haywood, to deny the offer and cease negotiations. AYE: Smith, Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Baxter. NAY: None. MOTION CARRIED.

Vincent reported on Item 36 that we entered into executive session under Section 307B3, Title 25, Oklahoma Statutes, to consider the acquisition of certain property in southeast Lawton. He recommended a motion authorizing the City Attorney's staff to bid on properties of the School Land Commission at the upcoming auction.

MOVED by Purcell, SECOND by Hanna, to authorize the City Attorney's staff to bid on properties of the School Land Commission at the upcoming auction. AYE: Hanna, Devine, Purcell, Shanklin, Moeller, Haywood, Baxter, Smith. NAY: None. MOTION CARRIED.

Vincent reported on Item 37 that we entered into executive session pursuant to Section 307B3, Title 25, Oklahoma Statutes, to consider property involved in the one-way in/one-way out project on the east side of Lake Lawtonka; this is a project for relocation of a road. He requested a motion to authorize the City Attorney's staff to negotiate with the owners and with the County on this property.

MOVED by Smith, SECOND by Baxter, to authorize the City Attorney's staff to negotiate with the owners and with the County on this property. AYE: Devine, Purcell, Shanklin, Moeller, Haywood, Baxter, Smith, Hanna. NAY: None. MOTION CARRIED.

Vincent reported on Item 38 that pursuant to Section 307B4, Title 25, Oklahoma Statutes, we entered into executive session to discuss the damage claim of Lee Carter, filed by his attorney Mike Lewis, against the City of Lawton. He requested a motion that the claim be denied.

MOVED by Devine, SECOND by Haywood, to deny the Lee Carter damage claim. AYE: Purcell, Shanklin, Moeller, Haywood, Baxter, Smith, Hanna, Devine. NAY: None. MOTION CARRIED.

Vincent reported on Item 39 that pursuant to Section 307B2, Title 25, Oklahoma Statutes, we entered into executive session to discuss the on-going negotiations for a Collective Bargaining Agreement for FY 2000-2001 between the Fire Union, IAFF, Local 1882, and the City of Lawton. He yielded to the floor.

MOVED by Baxter, SECOND by Devine, to accept the firefighter's contract with a few minor language changes as will be stated by Mr. John Vincent.

Mayor Powell asked the City Attorney to state the changes.

For the record, this portion is inserted verbatim as follows:

"Vincent: We noticed when we were working on this project that there was a typographical error on the Article 13, Section 13.3 as previously presented. This deals with the emergency medical incentive and I'll read into the language the first, first two sentences, it now reads June 30, 1999 and it should read all firefighters who are receiving emergency medical incentive pay on June 30, 2000 shall be entitled to incentive pay for emergency medical training for the duration of the agreement. This incentive shall be frozen at the dollar amount of the emergency medical incentive pay the member was receiving on June 30, 2000 and shall be paid bi-weekly. This corresponds to some language that the fire union had previously presented to the City. All other matters in that particular section will remain. On the educational incentive, this is also part of Article 13, this is subsection, I believe it's 13.1b or 13.3b. As I understand the motion, it is to accept the firefighter's language with certain language changes?

Baxter: As you stated.

Vincent: Yes sir. Under article, or subsection b2, it should read members who earn an associates degree in fire science or fire technology or a bachelors degree in a City related field from a state accredited university or college will be entitled to a 6% increase in base pay upon submitting proof of such degree to the Fire Chief or Personnel Director. In no instance shall a firefighter receive more than 6% educational incentive at any time. Subsection b1 and b2 shall not be combined nor shall a firefighter receive a 6% educational incentive for an associates degree and a 6% educational incentive for a bachelors degree. City related fields of study shall be from the following list, and I'm not going to read the list, it remains the same as proposed by the fire union. Any firefighter who is receiving more than one educational incentive, for example a 6% educational incentive for an associates degree and a 6% educational incentive for a bachelors degree, shall have the dollar amount of 6% educational incentive for one of the degrees be frozen at the dollar amount they were receiving on June 30, 2000. There will be no other changes." (end verbatim portion)

Purcell said he is opposed to the motion as it stands for a couple of reasons. Number one, with this motion, we have

overturned the vote of the people from earlier this year in terms of dollars. We have now restored, in almost every instance, the dollars that the people said no, we do not support, with one exception, now you cannot stack the two 6% and you can only get a one 6%. Purcell said he was in support of trying to get every firefighter and every City employee a degree; we pay for a degree for general employees, we pay for helping them get a degree for the police department. We offered that to the firefighters, that was not acceptable, they want the 6%. If you bring a brand new firefighter on board today and he comes in with a degree, over his 20 year career, we will pay, assuming no pay raises, never getting another pay raise, over that 20 year period it will cost the taxpayers in excess of \$31,000. We could pay, at \$200 per hour, if courses ever got that high, to get a bachelors degree, which he thought was the purpose of education, to get the degree, we will pay them the \$31,000 once they take 60 hours then they're done. Purcell said he thought that was wrong, we asked the people and went through all that heartburn and they told us what they wanted, and this Council is about to overturn what the voters said and he could not support that.

Shanklin said for the record he did not agree to the 4% per year. He said he had the 89-90 adopted budget whereby the educational incentive was \$117,000 and 11 years later that number has risen to \$143,000, or approximately \$26,000 over 11 years that the educational incentive has grown. Over the next three years, if he understood correctly, staff said it will increase another \$13,000 and asked if he heard that right. Livingston said \$14,000. Shanklin said that is keeping in line with what he saw in the past so he could support that, he did not like some of the other parts of it, but the majority speaks and he will be in support.

Vincent said for clarification, if this is approved, this would be a three year contract subject to annual budget appropriations and the appropriation language is inserted.

VOTE ON MOTION: AYE: Shanklin, Moeller, Baxter, Devine, Haywood. NAY: Smith, Purcell. ABSTAIN: Hanna. MOTION CARRIED. *Note: During initial roll call, Haywood passed and responded yes when called again to vote. There was no further business to consider and the meeting adjourned at 10:35 p.m. upon motion, second and roll call vote.